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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,616	01/27/2004	Robert Moser	MOSEB04/02	3379

27988 7590 01/12/2007  
JOSEPH T. REGARD, LTD PLC  
PO DRAWER 429  
MADISONVILLE, LA 70447-0429

EXAMINER
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WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/766,616

Applicant(s)

MOSER ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 8-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 2 is/are allowed.
- 6) ☒ Claim(s) 3-5 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>Attachment A</u> |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5 and 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 3, it is misdescriptive to state that the tubing itself is square. Rather, it is the tubing cross-section that is square. For claim 8, "said floor" (line 9) lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jurasek (3,979,006) in view of Perin (1,581,689). Jurasek teaches a stackable cargo bin system (Fig. 1) comprising: first and second bins (Fig. 3), each comprising: first and second vertical walls (16,17) having first and second ends joined by first and second end walls (15), respectively, to form a bin having an inner width; a floor (13) having upper and lower surfaces joining the walls to form a bin holding area having an upper edge, a length, and a width; and a rigid framework forming the edges of the bin (21, 22), most of

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the periphery of the vertical and end walls (21, 22, 14) and includes stringers (24) and braces (25) to reinforce the floor. For claim 8, Jurasek fails to teach vertical support members and top (periphery) members for the vertical and end walls as part of the rigid framework. Perin teaches a rigid framework with vertical support members and top vertical/end wall framework (see Attachment A). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Jurasek by using additional framing members, such as the vertical support members and top vertical/end wall framework taught by Perin, as part of the rigid framework thereof, for vertical/end wall reinforcement.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurasek (3,979,006) in view of Perin (1,581,689) as applied to claim 8 above, and further in view of Mander et al (3,643,812). As stated above, Jurasek in view of Perin teaches the limitations of claim 8, including a bin with walls and a floor. For claims 9-11 Jurasek in view of Perin fails to teach a template within the bin. Mander teaches a template (Fig. 1) with an upper member having sleeves (29) joined together at their peripheries and a lower member having sleeves (20) joined together at their peripheries. Furthermore, the rack has an outer upper flange/frame (25,15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Jurasek in view of Perin by adding a rack within its bin, such as the rack taught by Mander (dimensioning the rack/bin so that the lower member rests on the floor of the bin and the upper flange overhangs the top edges of the walls), to provide a removable means in the bin in which to haul tubular articles, when desired.

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Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jurasek (3,979,006) in view of Perin (1,581,689) as applied to claim 8 above, and further in view of Baehr (1,344,252). As stated above, Jurasek in view of Perin teaches the limitations of claim 8, including a bin with walls and a floor. For claim 9, Jurasek in view of Perin fails to teach a template within the bin. Baehr teaches a template (Fig. 1) with an upper member (1) having sleeves (10') joined together at their peripheries and a lower member (2) having sleeves (10') joined together at their peripheries. The rack has upper and lower frames (10) and is supported by the floor of a bin/container (9). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Jurasek in view of Perin by adding a rack within its bin, such as the rack taught by Baehr, to provide a removable means in the bin in which to haul tubular articles, when desired.

#### ***Allowable Subject Matter***

Claims 1 and 2 are allowed.

Claims 3-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 8-11 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, see page 8 of amendment, filed October 20, 2006, with respect to claims 1-5 have been fully considered and are persuasive. The art rejection of Dore'889 (alone and in view of Mander '812/Baehr'252) has been withdrawn.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

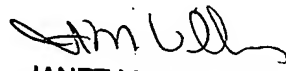
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkins  
January 5, 2007

  
JANET M. WILKINS  
PRIMARY EXAMINER  
Art 3637

A Hechment A

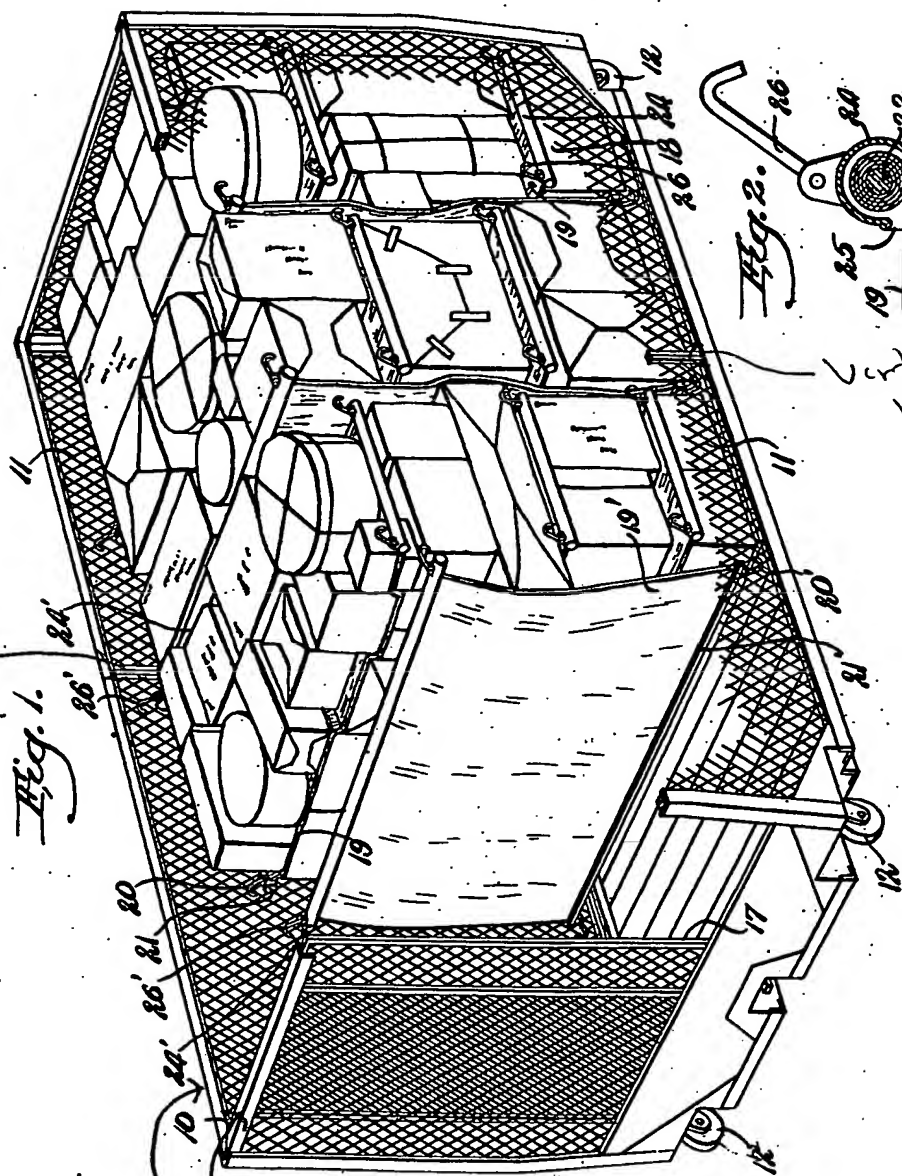
April 20, 1926.

1,581,689

D. W. PERIN

PARCEL DELIVERY

Filed July 6, 1923



Vertical support member

Fig. 1.

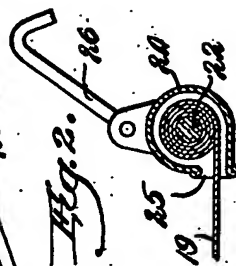


Fig. 2.

Vertical support member

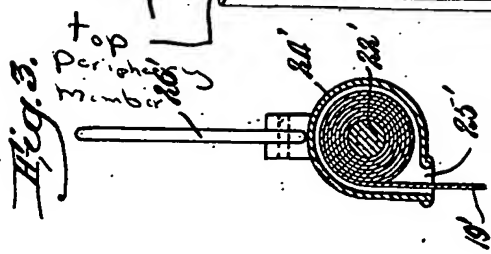


Fig. 3.

Top peripheral member

Inventor,  
Donald W. Perin,  
by Robert R. Roberts & Cushman  
Attys.